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*Attorneys for Defendants
GBG Sean John LLC and GBG USA Inc.*

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

SEAN COMBS,)	
)	Civ. Action No. 1:21-cv-00996-LJL
Plaintiff,)	
)	GBG SEAN JOHN LLC’S
v.)	AND GBG USA INC.’S
)	ANSWER AND
GBG SEAN JOHN LLC, GBG USA INC.,)	AFFIRMATIVE DEFENSES
MISSGUIDED LIMITED, and)	
MISSGUIDED USA (FINANCE) INC.,)	
)	
Defendants.)	

Defendants GBG Sean John LLC (“GBG Sean John”) and GBG USA Inc. (“GBG USA”) (collectively, “GBG”) respectfully submit their Answer and Affirmative Defenses to the Complaint (Dkt. No. 1) filed by Plaintiff Sean Combs (“Mr. Combs”). Except as otherwise expressly admitted, GBG denies each and every allegation contained in the Complaint.

For the avoidance of doubt, all headings in this Answer are identical to those stated in the Complaint for the sake of clarity only, and GBG denies each and every allegation contained in the Complaint headings, except as otherwise expressly admitted.

PRELIMINARY STATEMENT

1. Paragraph 1 consists of statements and conclusions of law to which no response is required. To the extent any response may be required, GBG denies the allegations contained in Paragraph 1.

2. GBG denies the allegations contained in Paragraph 2.

3. GBG denies the allegations contained in Paragraph 3, as to GBG.

4. Paragraph 4 consists of statements and conclusions of law to which no response is required. To the extent any response may be required, GBG denies the allegations contained in Paragraph 4.

5. GBG denies the allegations contained in Paragraph 5.

6. GBG denies the allegations contained in Paragraph 6.

PARTIES

7. GBG lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 and, therefore, denies those allegations.

8. GBG admits that GBG Sean John is a Delaware limited liability company and that its principal place of business is 350 Fifth Avenue, 10th Floor, New York, New York 10118.

9. GBG admits that GBG Sean John owns and/or operates the website at www.seanjohn.com and that this website is available to online users nationwide. GBG denies the remaining allegations contained in Paragraph 9.

10. GBG admits that GBG USA is a Delaware corporation, that its principal place of business is 350 Fifth Avenue, 10th Floor, New York, New York 10118, and that GBG USA is the parent company of GBG Sean John.

11. GBG lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 and, therefore, denies those allegations.

12. GBG lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 and, therefore, denies those allegations.

13. GBG lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 and, therefore, denies those allegations.

14. GBG admits that the website at www.missguidedus.com/about includes the statement: “It’s not just fast fashion – it’s rapid fashion. We drop up to 1000 brand new styles every week, working constantly to bring our babes the freshest pieces, put together in wearable ready-to-go outfits.” GBG lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 14 and, therefore, denies those allegations.

JURISDICTION AND VENUE

15. GBG admits that this Court has subject matter jurisdiction over this action.

16. GBG does not challenge the venue of this action. GBG denies the remaining allegations contained in Paragraph 16.

17. GBG does not challenge the Court’s personal jurisdiction in this action. GBG denies the remaining allegations contained in Paragraph 17.

BACKGROUND FACTS

A. Mr. Combs's Fame and Recognition

18. GBG lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18 and, therefore, denies those allegations.

19. GBG lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 and, therefore, denies those allegations.

20. GBG lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 and, therefore, denies those allegations.

21. GBG lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 and, therefore, denies those allegations.

22. GBG lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 22 and, therefore, denies those allegations.

23. GBG lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 23 and, therefore, denies those allegations.

B. GBG SJ Enters a License Agreement with Missguided

24. GBG admits that GBG Sean John entered into an agreement with Missguided Limited ("Missguided") to create and distribute a SEAN JEAN x MISSGUIDED capsule collection (the "Capsule Collection").

25. GBG denies the allegations contained in Paragraph 25. GBG further states that no approval or consent from Mr. Combs was necessary or required for the creation and distribution of the Capsule Collection.

26. GBG denies the allegations contained in Paragraph 26.

27. GBG admits that the Capsule Collection launched on September 29, 2020 and that an article dated September 21, 2020 and titled *P. Diddy Releases First Sean John Women's*

Collaboration With Missguided is available on the third-party website at www.365retail.co.uk/p-diddy-releases-first-sean-john-womens-collaboration-with-missguided. GBG further states that this third-party article speaks for itself. GBG lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 27 and, therefore, denies those allegations.

28. GBG admits that an article dated September 21, 2020 and titled *P. Diddy Releases First Sean John Women's Collaboration With Missguided* is available on the third-party website at www.365retail.co.uk/p-diddy-releases-first-sean-john-womens-collaboration-with-missguided. GBG further states that this third-party article speaks for itself. GBG lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 28 and, therefore, denies those allegations.

29. GBG denies the allegations contained in Paragraph 29.

30. GBG admits that an article dated September 21, 2020 and titled *EXCLUSIVE: Sean Jean Releases First Women's Collaboration With Missguided* is available on the third-party website at <https://wwd.com/fashion-news/fashion-scoops/sean-john-womens-collaboration-missguided-1234591810> and that an article titled *Jennifer Lopez, Rihanna inspire new Sean John x Missguided collaboration* dated September 29, 2020 is available on the third-party website at <https://pagesix.com/2020/09/29/jennifer-lopez-rihanna-inspire-sean-john-x-missguided-collaboration>. GBG further states that these third-party articles speak for themselves. GBG lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 30 and, therefore, denies those allegations.

31. GBG denies the allegations contained in Paragraph 31.

32. GBG admits that the Capsule Collection is available on the Missguided U.S. website at www.missguidedus.com/collaborations/sean-john-x-missguided. GBG lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 32 and, therefore, denies those remaining allegations.

33. GBG admits that the Capsule Collection is described as a “collaboration” between GBG Sean John and Missguided and that the Capsule Collection is available on the Missguided U.S. website at www.missguidedus.com/collaborations/sean-john-x-missguided. GBG further states that the Missguided U.S. website and the statements contained on that website speak for themselves. GBG lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 33 and, therefore, denies those remaining allegations.

34. GBG states that Paragraph 34 mischaracterizes the statement on the Missguided U.S. website at www.missguidedus.com/collaborations/sean-john-x-missguided. GBG denies the remaining allegations contained in Paragraph 34.

35. GBG admits that the Capsule Collection includes more than 100 pieces of clothing and that the Capsule Collection is available on the Missguided U.S. website. GBG further states that Paragraph 35 mischaracterizes the statement on the Missguided U.S. website at www.missguidedus.com/collaborations/sean-john-x-missguided. GBG lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 35 and, therefore, denies those allegations.

36. GBG admits that the Capsule Collection is available on the GBG Sean John website at <https://seanjohn.com/pages/sean-john-x-missguided>. GBG further states that the GBG Sean John website and the statements contained on that website speak for themselves.

37. GBG admits that “SEE THE FULL COLLECTION” and “SHOP NOW” buttons appear on the GBG Sean John website at <https://seanjohn.com/pages/sean-john-x-missguided> and that clicking on either of these buttons redirects to the website at www.missguided.co.uk/collaborations/sean-john-x-missguided. GBG further states that these websites and the content contained on these websites speak for themselves. GBG denies the remaining allegations contained in Paragraph 37.

38. GBG denies the allegations contained in Paragraph 38, as to GBG.

39. GBG lacks knowledge or information sufficient to form a belief as to the truth of the allegations regarding the purported understanding of “consumers” and, therefore, denies those allegations. GBG denies the remaining allegations contained in Paragraph 39.

40. GBG denies the allegations contained in Paragraph 40.

COUNT I
(False Endorsement, 15 U.S.C. § 1125(a))
(Against All Defendants)

41. GBG repeats and incorporates by reference the responses contained in Paragraphs 1-40 above.

42. GBG denies the allegations contained in Paragraph 42. GBG further states that no approval or consent from Mr. Combs was necessary or required for the creation and design of the Capsule Collection.

43. GBG denies the allegations of Paragraph 43.

44. GBG denies the allegations of Paragraph 44.

45. GBG denies the allegations of Paragraph 45.

46. Paragraph 46 consists of statements and conclusions of law to which no response is required. To the extent any response may be required, GBG denies the allegations contained in Paragraph 46.

47. GBG denies the allegations of Paragraph 47.

48. GBG denies the allegations of Paragraph 48.

49. Paragraph 49 consists of statements and conclusions of law to which no response is required. To the extent any response may be required, GBG denies the allegations contained in Paragraph 49.

50. GBG denies the allegations of Paragraph 50.

51. GBG denies the allegations of Paragraph 51.

52. GBG denies the allegations of Paragraph 52.

COUNT II

**(Common Law Right of Publicity/Misappropriation of Likeness or Identity)
(Against All Defendants)**

53. GBG repeats and incorporates by reference the responses contained in Paragraphs 1-52 above.

54. GBG denies the allegations of Paragraph 54.

55. GBG denies the allegations of Paragraph 55.

56. GBG denies the allegations of Paragraph 56.

57. GBG denies the allegations of Paragraph 57.

58. GBG denies the allegations of Paragraph 58.

59. GBG denies the allegations of Paragraph 59.

60. GBG denies the allegations of Paragraph 60.

61. GBG denies the allegations of Paragraph 61.

COUNT III

**(Statutory Right of Publicity — Cal. Civil Code § 3344)
(Against All Defendants)**

62. GBG repeats and incorporates by reference the responses contained in Paragraphs 1-61 above.

- 63. GBG denies the allegations of Paragraph 63.
- 64. GBG denies the allegations of Paragraph 64.
- 65. GBG denies the allegations of Paragraph 65.
- 66. GBG denies the allegations of Paragraph 66.
- 67. GBG denies the allegations of Paragraph 67.
- 68. GBG denies the allegations of Paragraph 68.
- 69. GBG denies the allegations of Paragraph 69.
- 70. GBG denies the allegations of Paragraph 70.
- 71. GBG denies the allegations of Paragraph 71.

REQUEST FOR RELIEF

GBG denies that Mr. Combs is entitled to any relief in this action. The request for relief on pages 13-15 of the Complaint consists of statements and conclusions of law to which no response is required. To the extent any response may be required, GBG denies the allegations and relief requested on pages 13-15 of the Complaint.

DEMAND FOR JURY TRIAL

In his Complaint, Mr. Combs demands a trial by jury. At this stage of the litigation, GBG does not yet possess the information necessary to determine whether or not Mr. Combs is entitled to a trial by jury and therefore expressly reserves all rights to object to Mr. Combs's jury trial demand during and following discovery in this action.

AFFIRMATIVE DEFENSES

First Affirmative Defense
(Failure to State a Valid Claim)

The Complaint fails, in whole or in part, to state a claim upon which relief may be granted because, among other reasons, GBG has a business and contractual relationship with Mr. Combs, such that the actions at issue do not constitute any violations of law.

Second Affirmative Defense
(Course of Dealing and/or Course of Performance)

Mr. Combs's claims are barred, in whole or in part, by the established course of dealing and/or course of performance between Mr. Combs and GBG.

Third Affirmative Defense
(Estoppel, Acquiescence, and Waiver)

Mr. Combs's claims are barred, in whole or in part, by the doctrines of estoppel, acquiescence, and/or waiver.

Fourth Affirmative Defense
(Fair Use)

Mr. Combs's claims are barred, in whole or in part, to the extent GBG used Mr. Combs's name or identity fairly and in good faith to discuss Mr. Combs's connection to the SEAN JOHN® brand and to refer to Mr. Combs as the founder of the SEAN JOHN® brand, the factual accuracy of which is acknowledged in Paragraph 20 of the Complaint.

Fifth Affirmative Defense
(Non-Commercial or Protected Free Speech under the First Amendment)

Mr. Combs's claims are barred, in whole or in part, to the extent uses of Mr. Combs's name or identity by GBG constitute free speech that is non-commercial and/or is otherwise protected under the First Amendment.

Sixth Affirmative Defense

(Newsworthy or Public Affairs Use of Name)

Mr. Combs's claims are barred, in whole or in part, to the extent uses of Mr. Combs's name or identity by GBG are newsworthy and/or a matter of public affairs.

Seventh Affirmative Defense

(No Infringing Use of Name or Identity in Commerce)

Mr. Combs's claims are barred, in whole or in part, to the extent GBG did not use Mr. Combs's name or identity in commerce in a manner that is likely to cause confusion, mistake, or deception.

Eighth Affirmative Defense

(Unclean Hands)

Mr. Combs's claims are barred, in whole or in part, by the doctrine of unclean hands.

GBG reserves the right to assert any other affirmative defenses during and following discovery in this action.

WHEREFORE, GBG prays that the Complaint be dismissed in its entirety as to GBG, and that this Court award GBG its costs and reasonable attorneys' fees in defending against the Complaint and Mr. Combs's claims in this action, and award such other and further relief to which GBG may be justly entitled.

This 29th day of March, 2021.

Respectfully submitted,

/s/ Rose Cordero Prey

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MISSGUIDED LIMITED, and)	AND GBG USA INC.'S
MISSGUIDED USA (FINANCE) INC.,)	ANSWER AND
)	AFFIRMATIVE DEFENSES
)	
Defendants.)	

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing **GBG Sean John LLC's and GBG USA Inc.'s Answer and Affirmative Defenses** was filed electronically using the CM/ECF system on March 29, 2021, which will automatically notify and effect service on all attorneys of record, who are deemed to have consented to electronic service via the Court's CM/ECF system.

/s/ Rose Cordero Prey
Rose Cordero Prey (Bar No. 886449)